

Certification of Foreign Workers

The following guidance for employers in the food industry who may question the authenticity of documents presented by a foreign worker was obtained through the Virginia Employment Commission and the Immigration and Naturalization Service:

CERTIFICATION OF FOREIGN WORKERS

- What is known as the I-9 Process was established in 1986-1987
- Handbooks and forms were mailed to all employers in 1986 and 1987
- The I-9 form has sections to be completed by the employee and employer. The employer checks employee identification and other records.
- The Virginia Employment Commission has or can get the forms.
- The I-9 form is titled U.S. Department of Justice, Immigration and Naturalization Service (INS), Employment Eligibility Verification. It is numbered OMB 1115-0136, and was revised 11-21-91.
- The Handbook for Employers, Instructions for Completing Employment Eligibility, is dated 11-21-91. The Department of Justice, Immigration and Naturalization Service stopped publishing the book. A new publication is anticipated.
- Documents presented to the employer must pass two tests
 - Appears genuine
 - Relates to the individual presenting the documents (appears to be issued to the person presenting the documents)
- Employers must not use the process to discriminate. Apply the same criteria in the same manner to each potential employee.
- If the documents do not appear genuine or do not appear to relate to the individual presenting them, the employer may state that he does not doubt the potential employee, but has concerns that must be satisfied to meet his obligations. The employer expresses those concerns and recommends that the potential employee get INS to make corrections so he can hire him. If the individual is in the U.S. legally and wants the job, he will do that. If not, the employer will not see him again.
- Social Security Service has sent employers a list of name and number mismatches. This does not necessarily indicate misrepresentation on the part of the potential employee. If the employer is aware of a name/number mismatch, he should request that the potential employee get the mismatch corrected.
- The Office of Business Liaison, INS Headquarters in Washington, D.C. will help an employer with the “appears genuine” test. If an employer has doubts and wants help, documents may be faxed to (202) 305-2523 for review by an INS employee. Both sides of the form need to be sent.